

Committee on Regional Trade Agreements

Status

All regional trade agreements in the WTO system are reviewed for compliance with WTO obligations and for transparency reasons. Prior to 1996, these reviews were typically conducted in a “Working Party.” The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was formed in early 1996 as a central body to oversee all regional agreements in the WTO system. The Committee is charged with conducting the reviews of all agreements, seeking ways to facilitate and improve the review process, particularly the conclusion of each review, to implement the biennial review requirement established by the Uruguay Round agreements, and to consider the systemic implications of such agreements and regional initiatives for the multilateral trading system.

Free trade areas (FTAs) and customs unions (CUs), both exceptions to the principle of MFN treatment, are allowed in the WTO system if certain requirements are met. In the GATT 1947, Article XXIV (Customs Unions and Free Trade Areas) was the principal provision governing FTAs and CUs. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the “Enabling Clause,” provides a basis for less-than-comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV.

Assessment of the First Five Years of Operation

The Committee’s work has improved the process reviewing and understanding regional trade agreements in the context of the multilateral trading system. For the first time, most agreements are reviewed in a single forum. All FTAs and CUs must fulfill several requirements in the WTO. First, substantially all of the trade between the parties to the agreement must be covered by the agreement, i.e., tariffs and other regulations of trade must be eliminated on substantially all trade. Second, the incidence of duties and other regulations of commerce applied to third countries after the formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case in the individual countries before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases. With respect to a CU, in which by definition common regulations of trade, including MFN duty rates, are adopted toward third countries, the parties to an agreement must notify WTO Members and begin compensation negotiations prior to the time when any tariff bindings, services commitments or other obligations are violated.

Before the Committee was established, agreements were reviewed in isolation. One result of this new, single forum review process is a focus on the varying quality and consistency of individual agreements or groups of agreements with WTO rules. Now WTO Members have the opportunity to compare and contrast the agreements. While providing an important oversight and transparency function, the Committee does not have the power to nullify agreements or find that the agreement is out of compliance with WTO rules. Members still have the option to address compliance problems via dispute settlement. The debate in the Committee more recently has been the extent to which the Committee should have more power to find agreements “consistent” with WTO rules. Thus far there has been no consensus on moving in this direction. Nonetheless, identification of problematic aspects of individual agreements have made many WTO Members more attentive to their WTO obligations.

Another area for further consideration is the review of developing country agreements. The United States, along with other trading partners has sought to bring such agreements under the purview of the new Committee. Currently, a number of developing countries argue that the Committee on Trade and Development, which is responsible for the “enabling clause” under which some agreements may be justified, is the more appropriate venue.

Major Issues in 1999

The Committee met four times during 1999. By the end of 1999, the Committee started or continued examination of 72 regional trade agreements (A list of all regional integration agreements notified to the GATT/WTO and currently in force is included in Annex II.) The North American Free Trade Agreement was among the accords reviewed. Detailed discussions were conducted on procedures and objectives for the biennial review of each agreement. The Committee held extended discussions on ways to improve the notification and review process. Finally, the Committee had substantial, but inconclusive, discussions on systemic effects of regional agreements on the multilateral trading system.

Work for 2000

During 2000, the Committee will continue to address all aspects of its mandate. Particular emphasis will be placed on completing the reviews of regional trade agreements that have already been notified, including the NAFTA, improving compliance with notification requirements, and establishing and implementing procedures for the biennial review process. Further discussions on improving the review process and the systemic effects of regional agreements will also be part of the work program for the coming year.